

Japan

Country Reports on Human Rights Practices - [2004](#)

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Japan is a parliamentary democracy based on its 1947 Constitution. Sovereignty is vested in the citizenry, and the Emperor is defined as the symbol of state. Executive power is exercised by a cabinet, composed of a prime minister and ministers of state, which is responsible to the Diet, a two house parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. The most recent national elections were in July. The Liberal Democratic Party (LDP) and the Komeito Party make up the current coalition government headed by Prime Minister Junichiro Koizumi. The judiciary is generally independent.

The Self-Defense Forces are responsible for external security and have limited domestic security responsibilities. The well organized and disciplined police force is effectively under the control of the civilian authorities. However, there continued to be credible reports that police committed some human rights abuses.

In spite of a lengthy economic downturn, the industrialized, free market economy continued to provide the approximately 127,580,000 residents with a high standard of living and high levels of employment.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There continued to be credible reports that police and prison officials physically and psychologically abused prisoners and detainees. Violence against women and children, child prostitution, and trafficking in women were problems. Women, the Ainu (the country's indigenous people), the Burakumin (a group whose members historically were treated as outcasts), and alien residents experienced varying degrees of discrimination, some of it severe and longstanding.

According to Ministry of Justice (MOJ) figures, the Legal Affairs Bureau offices and civil liberties volunteers dealt with 359,971 human rights related complaints and 18,786 reports of suspected human rights violations during 2003. Staffing constraints and limited legal powers make this administrative system weak, and many of these cases were ultimately resolved in the courts.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year.

In 2002, an inmate at Nagoya Prison died after guards, as a disciplinary measure, used leather handcuffs and body belts too tightly cinched (see Section 1.c.). In 2001, two Nagoya prison guards reportedly sprayed a high-power water hose at an "unruly" inmate, resulting in his death the following day. In April, one guard was given a suspended 2-year prison sentence; the second guard's case remains open. In the outcome of his March 2003 trial, the warden was warned to prevent further abuses by his subordinates.

In November 2003, relatives of a deceased prisoner and three former inmates sued the Government for abuses suffered in Nagoya prison between 2001 and 2002. At year's end, several civil cases against Nagoya prison guards were still pending.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and the Penal Code prohibits violence and cruelty toward suspects under criminal investigation; however, reports by several bar associations, human rights groups, and some prisoners indicated that police and prison officials sometimes used physical violence, including kicking and beating, as well as psychological intimidation, to obtain confessions from suspects in custody or to enforce discipline. The National Police Law permits persons to lodge complaints against the police with national and local public safety commissions. These commissions may direct the police to conduct investigations. However, public confidence in the system remained low, and allegations persisted that the police and the public safety commissions remained lax in investigating charges of police misconduct.

The Constitution and the Criminal Code include safeguards to ensure that no criminal suspect can be compelled to make a self incriminating confession or be convicted or punished in cases where the only evidence against the accused is his own confession. The appellate courts overturned some convictions in recent years on the grounds that they were obtained as a result of coerced confessions. In addition, civil and criminal suits alleging abuse during interrogation and detention have been brought against some police and prosecution officials.

Approximately 90 percent of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of guilt. Confession was regarded as the first step in the rehabilitative process. The Government maintained that the high percentage of confessions, like the high conviction rate, reflected a higher standard of evidence needed to bring about indictment in the judicial system.

During the year, the use of leather restraining body belts was abolished. Softer leather handcuffs without body belts were instituted as substitute restraining devices.

Prison conditions met international standards; however, several facilities were overcrowded, unheated, and medically understaffed.

Prisoners were not allowed to purchase or receive supplementary food. While death records are kept for 10 years, many of them lacked detailed explanations regarding the cause of death. The prison deaths and abuses made public in 2003 have sparked an ongoing review of the prison system (see Section 1.a.).

Prisons operated at an average 117 percent capacity. In some institutions, two inmates were placed in cells designed for one inmate, and eight or nine in cells meant for six.

In spite of the MOJ's request in 2001 for installation of heaters in prisons, most facilities remained unheated and without air conditioning. Inmates were not given sufficient clothing and blankets to protect themselves against cold weather, and there continued to be cases of frostbite among the prison population, particularly in Niigata Prefecture.

According to prison officials at Fuchu and Yokohama prisons, medical attention was inadequate. The MOJ's Corrections Bureau likewise acknowledged that correctional facilities lacked medical preparedness. The Government's Project Team on Medical Issues of Correctional Institutions continued to consult with related organizations on such issues as increasing medical staff, upgrading medical conditions during nights and weekends, and strengthening cooperative relationships with medical institutions in the community. In May, the Minister formed a subcommittee to improve prison medical facilities.

According to the Japan Federation of Bar Associations (JFBA), the authorities may read letters sent or received by prisoners. If the content is deemed "inappropriate," the letter may be censored or confiscated. All visits with convicted prisoners were monitored; however, prisoners whose cases were pending were allowed private access to their legal representatives.

The MOJ is not required to inform a condemned inmate's family prior to the person's execution. Human rights organizations reported that lawyers also were not told of an execution until after the fact and that death row prisoners were held for years in solitary confinement with little contact with anyone but prison

guards. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

The JFBA and human rights groups have criticized the prison system, with its emphasis on strict discipline and obedience to numerous rules. Prison rules remained confidential. While the Prison Law Enforcement Regulation stipulates that the maximum time prisoners may be held in single cells is 6 months, wardens continued to have broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days. Prisoners were sometimes forced to kneel motionless in an empty cell for several hours at a time; however, foreigners and the handicapped were allowed to sit on a hard stool, at the discretion of the prison warden.

In December, the Upper House passed both a Crime-Victims law and a revision to the 1908 Prison Law. The Crime-Victims law calls for compensation and counseling for crime victims, upholding victims' rights, and providing victims with criminal investigation information. Aimed at toughening penalties against felons, the Penal Code revision establishes new charges for gang rape, increases maximum prison terms and penalties for life-threatening crimes, and extends the statute of limitations for prosecuting capital offenses from 15 to 25 years.

In February 2003, the Government ratified the Convention on the Transfer of Sentenced Persons, allowing foreign prisoners to petition to serve their sentences in their home country. The Government added the stipulation that prisoners must serve at least one-third of their sentence in Japan before petitions will be considered. Since February 2003, 27 American prisoners have applied for transfers, but only 1 has been returned to the United States; 9 others have either completed their sentences while waiting or withdrew their requests.

Women and juveniles were housed in separate facilities from men; however, male prison guards sometimes guarded women prisoners. During the year, a male prison warden was charged with "violence and cruelty by a special public officer" for engaging in sexual acts with a female inmate awaiting trial. During the year, some women's detention facilities were operating over stated capacity. Pretrial detainees were held separately from convicted prisoners.

While the Government limited access by human rights groups to detention facilities, prison visits were allowed. However, Amnesty International reported that human rights groups were not allowed access to Nagoya prison because of ongoing court cases related to alleged abuses.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The law provides for judicial determination of the legality of detention. Persons may not be detained without charge, and prosecuting authorities must be prepared to demonstrate that probable cause exists to detain the accused. Under the law, a suspect may be held in detention at either a regular detention facility or "substitute" (police) detention facility for up to 72 hours. A judge must interview suspects prior to detention. A judge may extend preindictment custody by up to two consecutive 10 day periods based on a prosecutor's application. These extensions were sought and granted routinely. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 28 days.

The National Police Safety Commission oversees the National Police Agency (NPA), which has six internal bureaus: The Secretariat, the Administration Bureau, the Criminal Investigation Bureau, the Traffic Bureau, the Security Bureau, and the Communications Bureau; and regional bureaus in Shikoku, Kyushu, Tohoku, Kanto, Chubu, Kinki, and Chugoku. The Tokyo Metropolitan Police Communications Division and the Hokkaido Prefecture Police Communications Division functioned as local units with more autonomy than the units under regional jurisdictions. In addition, each prefecture has a prefectural police safety commission as well as a prefectural police agency, which was primarily funded by the prefecture's budget. In 2003, there were 14,111 kobans (police boxes) located throughout the country. Corruption and impunity were not problems within either the national or the prefectural police forces.

Under the Criminal Procedure Code, police and prosecutors have the power to control or limit access by legal counsel when deemed necessary for the sake of an investigation. Counsel may not be present during interrogations at any time before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney before indictment, although local bar associations provided detainees with limited free counseling. Critics charged that access to counsel was limited both in duration and frequency; however, the Government denied that this was the case. Incommunicado detention could be used for up to 23 days.

Critics charged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The Government countered that cases of persons sent to police detention facilities tended to be those in which the facts were not in dispute. An MOJ regulation permits officials to limit the amount of documentation related to ongoing court cases retained by prisoners.

The Law for Expediting Court Procedure became effective in 2003. The average trial period in 2003 was 3.2 months for criminal cases and 8.2 months for civil cases. The length of time before a suspect was brought to trial depended on the nature of the crime, but rarely exceeded 3 months from the date of arrest; the average was 1 to 2 months.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The Cabinet appoints judges for 10-year terms, which can be renewed until judges reach the age of 65. Justices of the Supreme Court can serve until the age of 70, but face periodic review through popular referendums.

There are several levels of courts, including high courts, district courts, family courts, and summary courts, with the Supreme Court serving as the final court of appeal. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court, and ultimately, to the Supreme Court. The Government generally respected in practice the constitutional provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. Although most criminal trials were completed within a reasonable length of time, cases occasionally took several years to work their way through the trial and appeals process.

In July 2003, the Diet passed legislation aimed at reducing the average time required to complete criminal trials and civil trials that include witness examination. Its provisions include hiring substantial numbers of additional court and MOJ personnel, revising bar examinations, establishing new graduate law schools to increase the overall number of legal professionals three-fold by 2010, and requiring that courts and opposing litigants jointly work to improve trial planning by allowing for earlier evidence collection and disclosure. The advisory panel on judicial reform released the official standards for setting up graduate law schools, and in March, 68 universities (22 public and 46 private) opened new law schools.

The July 2003 law also makes the Supreme Court responsible for accelerating proceedings in lower courts, imposes a 2 year time limit for courts to bring criminal and civil trials to conclusion, and requires the Government to take the legal and financial measures necessary to accomplish these goals.

A defendant is informed of the charges upon arrest and is assured a public trial by an independent civilian court with defense counsel and the right of cross-examination. There was no trial by jury; however, a judicial reform bill passed in May will allow serious criminal cases to be tried by a six-person, randomly selected jury and panel of judges. The law was scheduled to take effect in 2009.

The defendant is presumed innocent. The Constitution provides defendants with the right not to be compelled to testify against themselves as well as to free and private access to counsel; however, the Government contended that the right to consult with attorneys is not absolute and can be restricted if such restriction is compatible with the spirit of the Constitution. Access sometimes was abridged in practice; for example, the law allows prosecutors to control access to counsel before indictment, and there were allegations of coerced confessions (see Section 1.d.). Defendants are protected from the retroactive

application of laws and have the right of access to incriminating evidence after a formal indictment. However, the law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record. A defendant who is dissatisfied with the decision of a trial court of first instance may appeal to a higher court.

No guidelines mandate the acceptable quality of communications between judges, lawyers, and non-Japanese speaking defendants, and no standard licensing or qualification system for certifying court interpreters exists. A trial may proceed even if the accused does not understand what is happening or being said. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and were not translated adequately.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

In April 2003, the Public Security Investigation Agency extended surveillance of the terrorist group Aleph (formerly known as Aum Shinrikyo) because the Government declared the group still posed a danger to society.

In 2002, the Defense Agency confirmed reports that it had violated a law protecting personal information when it compiled lists of citizens seeking official documents. A privacy bill to prevent such actions passed the Diet in May 2003.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In July 2003, the Diet passed legislation prohibiting the solicitation of sex from minors through the Internet (see Section 5). The Japan Internet Providers Association and the Telecom Services Association

expressed concerns about the definitions of child prohibited sites and about the actions providers are required to take to prevent illegal use of Internet sites.

Academic freedom was not restricted. The Science, Technology, and Education Ministry's authority to order revisions to elementary, middle, and high school textbooks based on national curriculum guidelines remained a source of domestic and international controversy.

d. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Members of the Unification Church alleged that police did not respond to allegations of forced deprogramming of church members. While deprogramming cases decreased during the year, a Unification Church spokesman reported that prosecutors dropped two cases due to insufficient evidence. Although one member reportedly was kidnapped by her family during the year, the Unification Church did not report the case to police. Concerns remained regarding the tendency of officials to judge deprogramming as a family matter. Unlike in previous years, members of the Jehovah's Witnesses reported that their religious rights were respected by the Government during the year.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

Citizens have the right to travel freely both within the country and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Citizenship may be forfeited by naturalization in a foreign country or by failure of persons born with dual nationality to elect citizenship at the required age.

The law does not permit forced exile, and it was not used.

The law provides for the granting of refugee status or asylum to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided

protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee or asylum status. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

In May, the Diet passed a bill abolishing the 60-day application deadline previously required for aliens seeking refugee status. The previous refugee recognition law stipulated that those seeking refugee status had to apply within 60 days upon arriving in Japan or within 60 days of learning that they were likely to be persecuted in their home country. An alien recognized as a refugee has access to educational facilities, public relief and aid, and social welfare benefits.

Government records indicated that 523,617 persons were detained in 2003 at immigration detention centers. According to media reports, several deportations were carried out in secret. In July, two Kurdish families staged a 72-day protest against their deportation orders in front of the United Nations University in Tokyo.

In recent years, the Government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. A nongovernmental organization (NGO), in a statement to the U.N. Subcommission on Protection and Promotion of Human Rights, noted that, from 1982 to December 2002, 301 persons were accepted as refugees. The Government considered that most persons seeking asylum in the country did so for economic reasons. In 2003, there were approximately 7,900 refugees and asylum seekers in the country, of whom an estimated 7,700 were Vietnamese and Cambodian refugees. Out of 336 refugee claims submitted in 2003, the Government granted asylum to 10 persons from Burma, Burundi, and Iran and issued long-term residence permits based on humanitarian considerations to 16. As part of its ongoing family-reunification program for close relatives of Indochinese refugees resettled in earlier years, the Government admitted 147 refugees from Vietnam and Cambodia in 2003.

In May, a law was passed granting the Justice Minister authority to issue temporary-stay permits to persons seeking asylum. While this law provides a way for asylum seekers to have legal status in the country during the refugee recognition process, in practice it was quite difficult to obtain such permits.

In January 2003, the Immigration Bureau began to give detailed, written explanations of decisions not to grant refugee status to asylum-seekers and opened an information office at Narita Airport for potential asylum seekers.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a parliamentary democracy governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. The LDP and the Komeito Party formed the existing coalition government. Except for a brief hiatus in the 1990s, the LDP has been the dominant party in every government since the mid-1950s. General elections were held in November 2003, and elections for the Upper House were held in July.

According to NPA figures for January through June, there were 43 arrests involving political corruption for such charges as bribery, bid-rigging, and violation of the Political Funds Control Law. This was an increase of 14 cases from the previous year for the same time period.

In recent years, the numbers of women holding public office has slowly increased. As of July, women held 34 of 480 seats in the Lower House of the Diet and 33 seats in the 242-seat Upper House. As of September, there were two women in the Cabinet. As of April, 4 of the country's 47 governors were women.

No figures were available at the national level regarding minority political participation.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without governmental restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views, although the Government restricted access by human rights groups to detention facilities (see Section 1.c.).

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of race, creed, gender, social status, or family origin, and the Government generally respected these provisions.

Women

Violence against women, particularly domestic violence, often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or children. Consequently, NPA statistics on violence against women probably understated the magnitude of the

problem. According to NPA statistics, there were 12,568 cases of alleged domestic violence and 1,499 restraining orders issued in 2003. Police took action in 41 cases in which court orders were violated. Between April and September, the 120 prefectural consultation centers received 24,818 cases of domestic violence consultations. Of the total 103,986 consultations since fiscal 2002, 99.6 percent were for women.

The law allows district courts to impose 6-month restraining orders on perpetrators of domestic violence and to sentence violators up to 1 year in prison or impose fines of up to \$9,520 (1 million yen). According to Supreme Court figures from January through September, 1,579 applications for restraining orders against abusive spouses were sought, and 1,256 were issued. The orders either banned perpetrators from approaching their victims or ordered them to move away from the home, or both. The law also covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local governments offer financial assistance to 40 private institutions already operating such shelters.

The revision to the Law for the Prevention of Spousal Violence and the Protection of Victims passed in May expanded the definition of spousal violence to include mental, sexual, and physical abuse and increased the length of restraining orders from 2 weeks to 2 months.

NPA statistics reported 2,472 rapes in 2003. Husbands have been prosecuted for spousal rape; usually these cases involved a third party who assisted in the rape. In light of several high-profile gang rapes in 2003 involving college students at Waseda University, the Upper House passed a bill in December making gang rape an offense punishable by a minimum penalty of 4 years in prison. In November, a former student was sentenced to 14 years in prison for raping two women at a party organized by the "Super Free" student group, as well as a third woman in December 2001. All 13 other defendants received jail sentences of up to 10 years. Many local governments responded to the need for confidential assistance for abused women by establishing special women's consultation departments in police and prefectural offices.

Local governments and private rail operators continued to implement measures designed to address the widespread problem of groping and molestation of female commuters. Several railway companies have introduced women-only rail cars on various trains, and the Tokyo Metropolitan Assembly revised its anti-groping ordinance to make first-time offenders subject to imprisonment.

Trafficking in women remained a problem (see Section 5, Trafficking). Prostitution is illegal, but it occurred.

The Constitution and the Equal Employment Opportunity (EEO) Law prohibit sexual discrimination; however, sexual harassment in the workplace remained widespread. The National Personnel Authority established workplace rules in an effort to stop harassment in public servants' workplaces. A 1999 revision to the EEO Law includes measures to identify companies that fail to prevent sexual harassment, but it does

not include punitive measures to enforce compliance, other than allowing names of offending companies to be publicized. A number of government entities have established hotlines and designated ombudsmen to handle complaints of discrimination and sexual harassment.

Women made up 40.5 percent of the labor force, and women between the ages of 15 and 64 had a labor force participation rate of 48.5 percent. Although the Labor Standards and the EEO laws prohibit wage discrimination, in 2003, the average hourly wage for women was only 67.8 percent of the hourly wage for men. There was a significant salary income gap between men and women in 2003, with 64 percent of female employees earning \$28,571 (3 million yen) or less per year, as compared with 18 percent of all male employees, according to Cabinet Office statistics. Much of this disparity resulted from the "two-track" personnel administration system found in most larger companies under which new hires were put either in the managerial track (for those perceived as having executive potential) or the general track (for those engaged in basic office work).

Advocacy groups for women and persons with disabilities continued to press for a government investigation, a formal government apology, and compensation for sterilizations that were carried out between 1949-92.

Several cases filed by women forced to work as "comfort women" (prostitutes) during World War II were finalized during the year. In February, the Tokyo High Court rejected an appeal by 7 Taiwanese former "comfort women," while in November the Supreme Court dismissed a damage suit filed in 1991 by 35 Korean wartime "comfort women." In December, the Tokyo High Court dismissed an appeal by 4 Chinese former "comfort women," and the Supreme Court rejected a suit filed in 1993 by 46 Filipina wartime "comfort women."

Children

The Government is committed to children's rights and welfare, and in general the rights of children were protected adequately. Boys and girls have equal access to health care and other public services. Education is free and compulsory through the lower secondary level (age 14 or ninth grade). Education was available widely to students who met minimum academic standards at the upper secondary level through the age of 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the free upper secondary level exceeded 96 percent.

Public attention was focused increasingly on reports of frequent child abuse in the home. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances to 1 of the 182 nationwide local child counseling centers or to a municipal welfare center. In May 2003, the Ministry of Health, Labor, and Welfare reported that 108

children died as a result of child abuse since the enactment of the Child Abuse Prevention Law in 2000. In 2003, there were a record 23,738 cases of child abuse, up almost 2 percent from 2002, according to the Cabinet Office. Approximately 50 percent of the cases involved violence, and 40 percent were cases of parental neglect. Child welfare centers likewise reported a record 26,573 calls in 2003, an increase of 2,800 calls from the previous year. Although the Government offered subsidies to local governments to combat record-high child abuse, only 13 percent accepted the offer. Most of the local governments declining the subsidies stated they could not afford to pay their share of the bill.

Incidents of violence in schools and severe bullying ("ijime") also continued to be a societal and government concern. According to the Education, Culture, Sports, Science and Technology Ministry, public elementary school children committed a record 1,777 violent acts in the 2003 academic year, an increase of 27 percent from the previous school year, including acts of violence committed both on and off school grounds. In all 35,392 violent acts were committed in public elementary, junior high, and high schools during the 2003 academic year. Overall, cases of bullying rose 5.2 percent.

Student-on-student violence accounted for 50 percent of the violence by students in public schools. In June, a sixth-grader murdered her classmate, and a junior high school student pushed a 5-year-old boy off the fourth floor of an apartment building. The MOJ's Office of the Ombudsman for Children's Rights provided counseling services for children 18 years of age and younger who had been victims of bullying. In May, a High Court overturned a 2002 lower court ruling and ordered seven persons to pay a total \$548,600 (57.6 million yen) to parents of a 13-year-old boy killed in a bullying incident in 1993.

Teenage prostitution, dating for money, and child pornography continued to be problems. According to the Cabinet Office's white paper, there were 722 sex-related crimes associated with dating sites during the year. Easy access to web sites through mobile phones with Internet access made it easier for strangers to set up encounters with juveniles. In July 2003, the Diet passed a law criminalizing the use of the Internet for child pornography and prostitution (see Section 2.a.).

Children under the age of 14 cannot be held criminally responsible for their actions. Under juvenile law, juvenile suspects are tried in family court and have the right of appeal to an appellate court. Family court proceedings are not open to the public, a policy that has been criticized by family members of juvenile crime victims. For the last several years, juvenile crime has shown a trend toward more serious offenses such as murder, robbery, arson, and rape.

The Tokyo prefectural government continued programs to protect the welfare of stateless children, whose births their illegal immigrant mothers had refused to register for fear of forcible repatriation.

Trafficking in Persons

The Constitution prohibits holding persons in bondage, and the Government employed a variety of labor and immigration statutes to carry out limited trafficking-related prosecutions; however, there are no specific laws that prohibit trafficking in persons. In April, the Government created a senior coordinator presiding over an inter-ministerial committee for anti-trafficking efforts. In December, the Government released its Action Plan to combat trafficking in persons. Focusing on prevention, prosecution, and protection of trafficking victims, the Action Plan calls for a review of "entertainer" visas, strengthened immigration control, revision of the Penal Code to make trafficking in persons a crime, and added protection of victims through shelters, counseling, and repatriation assistance.

Trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and Eastern Europe, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. The country was a destination for illegal immigrants from China who were trafficked by organized crime groups and held in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The Government reported that some smugglers used killings and abduction to enforce cooperation.

There was evidence that trafficking took place within the country, as some recruited women subsequently were forced, through the sale of their "contracts," to work for other employers. Child prostitution was a problem (see Section 5, Children).

In May, according to media reports, a sex club boss and a brothel operator became the first persons charged with human trafficking in the country, after forcing two underage Japanese girls to work as prostitutes to repay debts they had incurred at the club.

Although reliable statistics on the number of women trafficked to the country were unavailable, human rights groups reported that up to 200,000 persons, mostly Southeast Asian women, are smuggled annually into the country and forced to work in the sex industry. In 2003, the NPA arrested 41 individuals for trafficking-related offenses, 8 of whom were traffickers. Of these individuals, 36 were convicted, 14 received prison terms, 17 received fines, and 5 received both a fine and prison term. In February 2003, 17 prefecture police offices and the Tokyo Metropolitan police simultaneously raided 24 strip clubs and rescued 68 trafficking victims. The NPA also participated in 16 transnational investigations. During the year, efforts were underway to improve screening of travelers arriving in Japan from key source countries of trafficking and to tighten the issuance of "entertainer" visas, which are often used by traffickers.

The Government does not consider an individual who has willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person's working conditions. Thus,

government figures may understate the problem, as persons who agreed to one kind of work found themselves doing another, or were subject to force, fraud, or coercion.

Traffickers were prosecuted for crimes ranging from violations of employment law to immigration violations. A government-funded study released in 2000 found that nearly two-thirds of foreign women surveyed following arrests for immigration offenses reported that they were working in the sex industry under duress.

Many women who were trafficked into the country, particularly from the Philippines, entered legally on entertainment visas. "Entertainers" are not covered by the Labor Standards Law and have no minimum wage protections.

Brokers in the countries of origin recruited women and "sold" them to intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses are classified as "store form" businesses such as strip clubs, sex shops, hostess bars, and private video rooms, and as "nonstore form" businesses such as escort services and mail order video services, which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in "snack" bars, where they were required to provide sexual services off-premises.

Trafficking victims generally did not realize the extent of their indebtedness, the amount of time it would take them to repay the debts, or the conditions of employment they would be subjected to upon arrival. According to Human Rights Watch, the passports of women trafficked to work in "dating" bars usually were confiscated by their employers, who also demanded repayment for the cost of the woman's "purchase." Typically, the women were charged \$28,570 to \$47,620 (3 million to 5 million yen), their living expenses, medical care (when provided by the employer) and other necessities, as well as "fines" for misbehavior added to the original "debt" over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes "resold," or threatened to resell, troublesome women or women found to be HIV positive, thereby increasing their debt and possibly worsening their working conditions.

Many women trafficked into the sex trade had their movements strictly controlled by their employers and were threatened with reprisals, perhaps through members of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant

surveillance, and used violence to punish them for disobedience. There were reports that some brokers used drugs to subjugate victims. Many trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

Domestic NGOs and lawyers compiled credible anecdotal evidence suggesting that some individual police officials returned trafficking victims to their employers when these individuals sought police protection. NGOs also reported that police sometimes declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Except for the Tokyo Metropolitan and Kanagawa Prefectural Government, which funded locally based NGOs assisting victims of trafficking, the Government did not assist victims of trafficking other than to house them temporarily in detention centers for illegal immigrants or facilities established under the Anti-prostitution Law, or by referral to shelters run by NGOs. Generally these trafficking victims were deported as illegal aliens. During the year, the Government administratively decided not to treat victims as immediately deportable criminals, allowing the Government to develop its cases against traffickers. Victims without documentation or sufficient funds to return to their country of origin were sometimes detained for long periods. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims.

During the year, government officials met with destination-country officials and participated in a Southeast Asian study tour to research trafficking issues. The Government has instituted tighter entertainer visa issuance and intends to cut the number of such visas issued to women from the Philippines from 80,000 to 8,000 a year. In 2003, the Cabinet Affairs Office conducted a campaign to heighten public awareness of violence against women and trafficking, while the NPA produced a training video on trafficking and distributed it to all police offices to improve their awareness of trafficking. In 2003, the Government disbursed \$3 million (315 million yen) to UNICEF, the International Labor Organization (ILO), the U.N. Development Program, and the Philippine government to alleviate poverty, raise awareness of the dangers of trafficking, and promote alternative economic opportunities for women.

Persons with Disabilities

There were an estimated 3.4 million persons over the age of 18 with physical disabilities and roughly 3 million with mental disabilities. Although not generally subject to overt discrimination in employment, education, or in the provision of other state services, persons with disabilities faced limited access to public transportation, "mainstream" public education, and other facilities. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, has mandated that private

companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax benefits if they build wider entrances and elevators to accommodate persons with disabilities.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law also loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. In 2003, workers with disabilities employed by private companies comprised on average 1.5 percent of the total number of regular employees, somewhat less than the legally stipulated rate of 1.8 percent. While nearly 70 percent of large corporations (1,000 or more employees) fell short of this goal, several large corporations had special divisions for workers with disabilities, including Omron, Sony, and Honda. For example, 80 percent of Omron's Kyoto factory staff of 82 had disabilities, with the majority having severe disabilities. These employees earn an average of \$29,000 (3 million yen) per year, which is above the minimum wage.

At the end of 2002, all prefectural governments and 91.5 percent of local city governments had developed basic plans for citizens with disabilities. In June, the Disabled Persons Fundamental Law was revised, obligating all municipalities to draw up formal plans for the disabled.

National/Racial/Ethnic Minorities

Burakumin, Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The approximately 3 million Burakumin (descendants of feudal era "outcasts"), although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities.

According to the MOJ, there were nearly 1.85 million legal foreign residents as of 2002. The largest group, at approximately 625,400, was ethnic Koreans, followed by Chinese, Brazilians, and Filipinos. Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) were subject to various forms of deeply entrenched societal discrimination. Harassment and threats against pro-North Korean organizations and persons reportedly have increased since the 2002 admission by North Korea that it had kidnapped more than a dozen

Japanese citizens. Other foreigners also were subject to discrimination. There was a widespread perception among Japanese citizens that foreigners committed many crimes. According to a government survey released in May, more than 70 percent of citizens worried that an increase in the number of illegally employed foreign workers could undermine public safety and result in human rights abuses against the workers themselves. Nevertheless, more than 80 percent said the country should accept foreign laborers conditionally or unconditionally.

A controversial Immigration Bureau website launched in February allows informants to report the name, address, or workplace of any suspicious foreigners for such reasons as "causing a nuisance in the neighborhood" and "causing anxiety." In the face of protests from human rights groups, the site was amended in March to remove the preset reasons, but remained operational at year's end.

In 2001, Hokkaido police investigated death threats made against a foreign-born naturalized citizen who had sued a bathhouse for refusing him entrance on the basis of race and the Otaru Municipal Government for failing to take measures to stop discriminatory entrance policies. In November 2002, the Sapporo District Court ordered the bathhouse to pay the plaintiff \$29,000 (3 million yen) for subjecting the plaintiff to racial discrimination. The court rejected the claim against the Otaru Municipal Government, saying that the International Convention on the Elimination of All Forms of Racial Discrimination does not require local governments to institute ordinances to stamp out discrimination. In September, the Sapporo High Court rejected the appeal.

By law, aliens with 5 years of continuous residence are eligible for naturalization and citizenship rights, including the right to vote; however, in practice, most eligible aliens choose not to apply for citizenship, partly due to fears that their cultural identity would be lost. Obstacles to naturalization included broad discretion available to adjudicating officers and great emphasis on Japanese-language ability. Naturalization procedures also required an extensive background check, including inquiries into the applicant's economic status and assimilation into society. Koreans were given the option of adopting a Japanese surname. The Government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society. Alien permanent residents may live abroad for up to 4 or 5 years without losing their right to permanent residence in the country.

In September 2003, the School Education Law was amended to allow graduates of 21 non Japanese language schools to become automatically eligible to take university entrance examinations. Previously all students of non-Japanese language schools were required to pass a state-run high school equivalency test to qualify for the examinations. The amended law also enabled universities to set their admissions criteria at their own discretion. During 2003, many national universities also admitted graduates of non-Japanese language schools other than the 21 schools included in the School Education Law amendment.

Indigenous People

The Ainu are a people descended from the first inhabitants of the country. Under an 1899 law, the Government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of approximately 0.15 percent of their original land holdings and empowered the Government to manage communal assets.

After a 1997 court ruling, the Diet passed a law that recognized the Ainu as an ethnic minority, required all prefectural governments to develop basic programs for promoting Ainu culture and traditions, canceled previous laws that discriminated against the Ainu, and required the Government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido, failed to address whether they deserved special rights as a distinct ethnic group, and did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal minority. The U.N. Special Rapporteur to the U.N. Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual juridical relationship with any state and noted that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights and criticized the Government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status. The Japan Ainu Association, a nationwide organization of Ainu, lobbied the Government for economic assistance and greater social welfare benefits. Although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased, the Ainu continued to face societal discrimination.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of workers to associate freely in unions. In 2003, approximately 10.5 million workers, 19.6 percent of all employees, belonged to labor unions. Unions were free of government control and influence. The Japanese Trade Union Confederation, which represented 6.8 million workers and was formed in 1989 through the merger of several confederations, was the largest labor organization.

Some public employees, including members of the Self-Defense Forces, police, and firefighters are not permitted to form unions or to strike. These restrictions have led to a long-running dispute with the ILO Committee on the Application of Conventions and Recommendations over the observance of ILO Convention 98 concerning the right to organize and bargain collectively. The Committee has observed that these public employees have a limited capacity to participate in the process of determining their wages and has asked the Government to consider measures it could take to encourage negotiations with public

employees. The Government determines the pay of government employees based on a recommendation by the independent National Personnel Authority.

b. The Right to Organize and Bargain Collectively

The Constitution provides unions with the right to organize, bargain, and act collectively. These rights were exercised freely, and collective bargaining was practiced widely. The Constitution provides for the right to strike, and workers exercised this right in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution provides that no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited. Although children were not specified in the provision, this legal prohibition against forced or compulsory labor applies equally to adults and to children. In practice, there were no reports of persons held in bondage or involuntary servitude apart from trafficking victims.

Former Allied prisoners of war and Chinese and Korean workers continued to press claims in Japanese civil courts and in complaints to the ILO for damages and compensation for forced labor during World War II. During the year, the United State Supreme Court rejected appeals from former prisoners of war and others who claimed they were forced to work for private Japanese companies as slave laborers during World War II. In July, overturning a district court's 2002 decision against Chinese plaintiffs, a high court ordered Nishimatsu Construction Company to pay \$261,900 (27.5 million yen) in compensation to a group of World War II slave laborers. In January 2003, a U.S. federal appeals court dismissed a number of lawsuits by former prisoners of war and civilians who alleged they had been forced to labor for private Japanese firms during World War II.

d. Prohibition of Child Labor and Minimum Age for Employment

The Constitution bans the exploitation of children. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. By law, children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs.

e. Acceptable Conditions of Work

Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the

concerned minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates ranged according to prefecture from \$5.77 (606 yen) to \$6.76 (710 yen) per hour. Minimum wage rates were considered sufficient to provide a worker and family with a decent standard of living.

The Labor Standards Law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week, or 8 in a day. However, labor unions frequently criticized the Government for failing to enforce maximum working hour regulations in smaller firms.

Activist groups claimed that employers exploited or discriminated against foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. The Immigration Bureau of the MOJ estimated that, as of January, there were more than 200,000 foreign nationals, primarily from South Korea, the Philippines, China, Thailand, and Malaysia, residing illegally in the country, with the majority of them engaged in manual labor.

The Government tried to reduce the inflow of illegal foreign workers by prosecuting employers of such workers. According to NPA figures, 175 persons were charged with "illegal employment assistance" during the first half of 2002. The Immigration Law provides for penalties against employers of undocumented foreign workers. Maximum fines for illegal employment assistance were raised to \$29,000 (3 million yen) in December. Suspected foreign workers also may be denied entry for passport, visa, and entry application irregularities. The Government continued to study the foreign worker issue, and several citizens' groups were working with illegal foreign workers to improve their access to information on worker rights.

The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety, principal among which is the Industrial Safety and Health Law. Standards were set by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the Central Labor Standards Council. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.